



Comptroller General
of the United States

1031311

Washington, D.C. 20548

Decision

Matter of: The Bionetics Corporation

File: B-258272

Date: November 1, 1994

Del Stiltner Dameron, Esq., and Thomas F. Burke, Esq., McKenna & Cuneo, for the protester.
Kenneth S. Kramer, Esq., and Catherine E. Pollack, Esq., Fried, Frank, Harris, Shriver & Jacobson, for ManTech Environmental Technology, Inc., an interested party.
Robert S. Chichester, Esq., Environmental Protection Agency, for the agency.
John L. Formica, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of protester's proposal is dismissed where the protester would not be in line for award even if the protester is correct and its technical proposal were to receive the maximum number of points available under the RFP for the one aspect of the agency's evaluation that was challenged by the protester.

DECISION

The Bionetics Corporation protests the award of a contract to ManTech Environmental Technology, Inc. under request for proposals (RFP) No. C300464T1, issued by the Environmental Protection Agency (EPA) for technical support services for EPA's Environmental Research Center in Cincinnati, Ohio.

We dismiss the protest.

The RFP, issued December 20, 1993, provided for the award of a cost-plus-fixed-fee contract. The RFP stated that award would be made to the responsible offeror whose offer, conforming to the solicitation, was determined most advantageous to the government, cost and other factors considered. Technical factors were said to be more important than cost, with the importance of cost increasing "[a]s proposals become more equal in their technical merit."

The RFP listed the following evaluation factors and subfactors, and the maximum attainable points for each (totalling 1,000 points):

1. Demonstrated Appropriateness of Corporate Experience (100 points)
2. Demonstrated Qualifications of Key Personnel
 - A. Demonstrated managerial qualifications of proposed Project Manager/Chemist (75 points)
 - B. Demonstrated technical qualifications of proposed Project Manager/Chemist (75 points)
3. Demonstrated Appropriateness of Proposed Program Management Plan (300 points)
4. Demonstrated Appropriateness (Availability and Capability) of Proposed Facilities, Equipment and Laboratory Operating Procedures (175 points)
5. Demonstrated Appropriateness of Quality Assurance Program Plan (75 points)
6. Demonstrated Appropriateness of Response to Sample Work Assignment (200 points)¹

The agency received four proposals by the RFP's February 18, 1993, closing date. The proposals were evaluated by a Technical Evaluation Panel and Business Evaluation Panel, with the proposals of ManTech and Bionetics being included in the competitive range. Discussions were held, and best and final offers (BAFO) received and evaluated. Bionetics's proposal received an overall total score of 913 points with a cost of \$8,951,557. ManTech's proposal received an overall total score of 982 points with a cost of \$7,787,639. The agency determined that ManTech's proposal represented the best overall value to the government and made award to that firm.

Bionetics protests that the agency improperly downgraded Bionetics's proposal under the demonstrated managerial qualifications of proposed Project Manager subfactor, in that the agency "penalized Bionetics because Bionetics' Project Manager did not have formal management education and

¹Only the subfactors within the Demonstrated Qualifications of Key Personnel evaluation factor have been set out here, as the subfactors within the other evaluation factors are not relevant to the resolution of the protest.

training, even though the solicitation contained no criteria relating to formal management education."²

Here, there is simply no possibility that Bionetics was prejudiced by the agency's allegedly unreasonable evaluation of the managerial qualifications of Bionetics's proposed Project Manager. Prejudice is an essential element of every viable protest, Lithos Restoration, Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379, and we will not disturb an award where there is no reasonable possibility that the protester was prejudiced by the agency's actions. George A. Fuller Co., B-247171.2, May 11, 1992, 92-1 CPD ¶ 433.

Bionetics's proposal received 67.5 points out of the 75 points available under the demonstrated managerial qualifications of proposed Project Manager subfactor. As such, if Bionetics's proposal had received the maximum points available under this subfactor, its total technical score would increase only 7.5 points from 913 to 920.5. Because Bionetics's technical score if increased to 920.5 is still substantially lower than ManTech's technical score of 982, and Bionetics's cost of \$8,951,557 is substantially higher than ManTech's cost of \$7,787,639, the alleged evaluation deficiency did not result in an award that otherwise would not have been made. Empire State Medical, Scientific and Educ. Foundation, Inc., B-238012, March 29, 1990, 90-1 CPD ¶ 340.

The protest is dismissed.


James A. Spangenberg
Assistant General Counsel

²Bionetics also argued in its protest that the agency failed to perform a reasonable cost realism analysis of the proposals and that agency "failed to consider whether ManTech's proposal was based on the use of government-furnished equipment from another government contract." EPA fully responded to these issues in its agency report, and Bionetics did not respond to the agency's position in its comments on the agency report. Accordingly, we consider the protester to have abandoned these issues. Delta Research Assocs., Inc., B-254006.2, Nov. 22, 1993, 94-1 CPD ¶ 47.